IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1209 OF 2002

Shri Jayram Bhausaheb Dhende & ors. .. Petitioners
v/s.
State of Maharashtra & ors. .. Respondents

Dr.Avinash Shivade for petitioners.
Mr.A.P.Vanarse, AGP for res.Nos.1 & 4.
Mr.N.V.Bandiwadekar for res.No.3.
Mr.S.J.Rairkar for res.No.5.
Mr.R.S.Khadapkar for Mr.R.G. Ketkar for res.No.2.

CORAM : H.L. GOKHALE &
SMT.R.S.DALVI, JJ.

DATE : 30th June 2005

P.C. :

1. Heard the learned Counsel for the parties.

2. This petition is filed by three teachers and by one Committee of teachers. The petition is supposed to be on behalf of some 189 teachers. The cause leading to the petition is that some 38 villages outside the Pune city were earlier merged in the Municipal area and from amongst them, 20 villages have been subsequently taken out and they are now with the Zilla Parishad. The grievance is that the teachers working in the schools were transferred along with the schools and the villages to the Pune Municipal Corporation. They were asked to give their options as to whether they would like to work under the Pune Municipal

Corporation and be absorbed there or otherwise. Some of them appear to have given such options. All these villages having been deleted from the Municipal Corporation area, now the teachers are being repatriated to the villages. The petition is filed to challenge this repatriation. An interim prayer (c) in the petition seeks that the respondents be restrained from transferring or handing over their services to the Zilla Parishad. A Division Bench, which heard this matter, passed an ad-interim order way back on 19th August 2002 to protect these teachers. Neither the names of these 189 teachers are mentioned nor the list of these teachers is annexed to the petition nor is it stated any where that these are the persons on whose behalf the petition is being filed. The law is very clear that when a petition is filed to represent a large number of persons, a leave under Order I Rule 8 of the Code of Civil Procedure is required to be taken and the list of such persons must be annexed. On the last date of hearing, we put the petitioners to a specific notice in our order passed on 9th June 2005 in this regard. However, no such application has been filed till this date, though the matter was adjourned for two weeks. It is not for the Court to advise the Advocates appearing in the matters as to what are

the correct steps to be taken in law. Although the petition claims to represent all these persons and it is stated that some such persons do not want to go back to the village areas under the control of the Zilla Parishad, it is not possible for the Court to take any such notice in the absence of any such list and any such prayer being made. This position remains on the record in spite of a clear order passed two weeks before.

3. Mr.Bandiwadekar, learned Counsel appearing for respondent No.3-Zilla Parishad, points out that a very peculiar position has occurred. All the teachers in the primary schools at these villages continued to teach in those schools at all material times and now also they continue to teach in those very schools. Their administrative control was transferred to the Pune Municipal Corporation when the villages were merged in the Pune Municipal Corporation. Now, the villages are re-transferred to the Zilla Parishad. The building and the properties are with the Zilla Parishad. The teachers continued to teach in the very same schools. Only their administrative control is not with the Zilla Parishad. Surely, that cannot be. It is not a case that any of these teachers were transferred to the city or

other villages. No such list is annexed to the petition, whereby we can say that some of the teachers from these villages are in the city area. Some such names are mentioned on pages 7, 8 and 9 of the petition, but those persons are not before the Court. Petitioner No.3-Committee is not a registered body nor does it have any document of recognition from the Municipal Corporation or the Zilla Parishad. The petition is also not a Public Interest Petition.

4. It has, however, so happened in the meanwhile that some of these teachers have been promoted to the position of Head Master and some have retired. As far as these persons are concerned, Mr.Rairkar appearing for respondent No.5-Municipal School Board, states that the Board is willing to abide by an order, if the Court so directs, that the Pune Municipal School Board will absorb these teachers. Accordingly, we direct that such teachers will be treated as retired from the services of the Municipal Corporation and those who have been promoted to the position of Head Master, will be retained in the services of the Municipal Corporation as Head Master. They, of course, will have to be transferred to city area and cannot continue any further in these 20

villages. We expect the Pune Municipal Corporation to take necessary steps within about eight weeks with respect to the transfer of the Head Masters to the city area as well as forwarding their pension papers, if they have not been so forwarded in the case of the teachers who are retired.

5. We cannot entertain this petition for any further prayers. The petition stands disposed of. The interim order passed earlier will stand vacated. Dr.Shivade prays that the order of status quo passed earlier be continued. It is not possible for us to continue the same inasmuch as the petition is not filed in a representative capacity to claim and continue further such a wide injunction. The prayer is rejected.

(H.L. GOKHALE, J.)

(SMT. R.S.DALVI, J.)